



# TTS Group ASA – Services Business Unit

## Terms and conditions for the supply of spare parts Addendum to ORGALIME S 2012

January 2016

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### Art. 1 Introduction

1.1 These terms and conditions ("TTS – BU Services T&C") shall apply to the Contract entered into between TTS (the "Supplier") and its customer (the "Purchaser").

1.2 In event of conflict, ambiguity or inconsistency between the documents forming the Contract, the following order of precedence applies:

- a) Order Confirmation;
- b) These terms and conditions (TTS – BU Services T&C);
- c) ORGALIME S2012 (a copy may be provided to the Purchaser upon request In Writing).

1.3 Any purchase order issued upon and in accordance with the Supplier's quotation shall be considered as a contractual binding acceptance, and shall be subject to these TTS –BU Services T&C. In case the Supplier issues an Order Confirmation, the Order Confirmation shall take precedence of the purchase order and/or the quotation.

1.4 Other terms and conditions not stated herein, regardless of whether such terms and conditions are referred to by the Purchaser in previous or subsequent communication shall not apply unless the Supplier In Writing expressly agrees thereto.

### Art. 2 Definitions

2.1 The defined terms in ORGALIME shall have the same meaning when used herein unless specified otherwise.

2.2 In addition to the defined terms stated above, the following words and expressions shall have the meaning hereby assigned to them:

"Article" means an article in TTS –BU Services T&C; "Clause" refers to a clause in ORGALIME S 2012;

"Confidential Information" means any and all information, including but not limited to, patent rights, design rights, knowhow, trade secrets, proprietary technology, specifications, drawings, technical data, technical material, product information, databases, software, manuals, guidelines, methods, instructions, business plans, marketing plans, marketing analysis, marketing strategies, financial information, financial analysis, financial strategies, and all other proprietary information, whether submitted orally, in writing or by any other media.

"Contract" means entire agreement between the Supplier and the Purchaser;

"Intellectual Property Rights" means all intellectual property rights of any kind existing anywhere in the world, whether registered or not, and all applications, renewals and extensions of the same, including but not limited to, patents, designs, trademarks, service marks, copyrights, utility models, knowhow, layout design for integrated circuits, company names, trade names, and trade secrets and other confidential information in any form, rights in goodwill and other rights pursuant to legislation against unfair competition, owned by the parties to this Contract or licensed by any of the parties from a third party.

"Order Confirmation" means the confirmation or similar document In Writing containing special terms and/or the specific scope of delivery, including but not limited to a purchase order issued in accordance with the Contractor's quotation as described in article 1.3 above.;

"Purchase Price" means the price(s) stipulated in the Contract.

### Art. 3 Confidentiality and property rights

3.1 Confidential Information exchanged between the parties shall be treated as confidential and shall not be disclosed to a third party without the other party's consent In Writing.

3.2 The Purchaser agrees to preserve the Intellectual Property Rights of the Supplier at all times, and that no contract for supply of products involves loss of Intellectual Property Rights by the Supplier unless expressly specified In Writing.

3.3 Commercial and technical information, including drawings, documents and computer programs regardless of method of storage, and copies thereof, provided by the Supplier to the Purchaser shall be the property of the Supplier. The same applies to information developed by the Supplier mainly on the basis of sources of information provided by the Supplier.

### Art. 4 Standard products

4.1 The Product(s) and all documentation, manuals, reports or the like are factory standard and they are not warranted to fit for any other particular purpose than originally designed/manufactured.

4.2 All drawings, descriptions, specifications and advertising issued by the Supplier or descriptions, details and illustrations in catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Product(s) described in them and they will not form part of the Contract unless otherwise agreed In Writing.

### Art. 5 Drawings and descriptions for approval

In the event the Supplier shall submit drawings or descriptions for approval, the Purchaser shall approve them within the time given in the Contract, or, if no time limit is specified, within fourteen (14) days of receipt. If not, they shall be deemed to have been approved.

### Art. 6 Variations

No variations of the Contract shall be effective unless agreed In Writing.

### Art. 7 Acceptance tests

Acceptance tests, cf. Clause 6 to 9 in ORGALIME S 2012, shall not be performed unless otherwise stated in the Contract.

### Art. 8 Cancellation

8.1 The Purchaser may by notice In Writing to the Supplier cancel the Contract provided that the notice of cancellation is received by the Supplier before the agreed delivery date or shipment (whichever occurs first).

8.2 In event of cancellation, the Purchaser shall pay to the Supplier, at the Supplier's sole discretion, either:

- a) All costs incurred by the Supplier in connection with the Contract, including but not limited to labour costs, storage costs up to the date of cancellation, shipment, taxes, cancellation charges and other administration costs; or
- b) a cancellation fee amounting to:
  - i) 20 % of the Purchase Price if the notice of cancellation is received thirty (30) days or more prior to the delivery date,
  - ii) 50 % of the Purchase Price if the notice of cancellation is received less than thirty (30) days prior to the delivery date.

8.3 Article 8.2 b) shall not apply to non-standard items, i.e. Products which are not manufactured for the Supplier's stock and Products manufactured according to the Purchaser's specifications. The cancellation fee for such Products shall be 100 % of the Purchase Price.

### Art. 9 Delivery terms and packaging

9.1 In regard to passing of risk and delivery date, the Product(s) or parts of the Product(s) shall be delivered in accordance with whichever INCOTERMS delivery term specified in the Contract. Where no INCOTERMS delivery term has been specified, the Product(s) or parts of the Product(s) shall be delivered EXW (INCOTERMS 2010).

9.2 Regardless of any INCOTERMS delivery term, the prices quoted by the Supplier or the Purchase Price stipulated in the Contract is exclusive packing. The Product(s) shall be delivered in standard packaging unless special packaging is stipulated in the Contract.

9.3 In case the Supplier undertakes to provide or arrange for transport to a place specified by the Purchaser, unless by reference to Incoterms to that effect, such transport shall be for the sole risk and responsibility of the Purchaser and any costs in connection with transport shall be charged in addition to the Purchase Price. Further, such services provided to the Purchaser shall not, regardless of any specification of delivery terms on transport documents or invoices, change the delivery terms specified in the Order Confirmation or the delivery terms according to Article 9.1 last sentence.

#### **Art. 10 Delivery date and inspection of delivery**

10.1 Any dates specified by the Supplier for delivery of the Product(s) is/are intended as an estimate only. In respect of Clause 14 of ORGALIME S 2012 the delivery shall not be deemed delayed before 14 (fourteen) days after the date(s) specified by the Supplier unless it is agreed In Writing that the specified date of delivery is guaranteed by the Supplier.

10.2 The Purchaser shall inspect the Product(s) and notify the Supplier In Writing of any loss, shortage, excess or – in case of other delivery terms than EXW – any transit damage without undue delay and not later than within three (3) days of delivery. In event of any loss, shortage, excess or transit damage the Purchaser shall immediately permit the Supplier to carry out inspection and any such investigation the Supplier finds necessary. If the Purchaser fails to adhere to these procedures, any remedial costs shall be the responsibility of the Purchaser.

#### **Art. 11 Prices**

11.1 The Purchase Price is strictly net and exclusive VAT and any other applicable sales taxes, fees, charges or the like in connection with export, import or transit.

11.2 The Purchase Price is exclusive packing for transportation/shipment and packing, whether standard packing or special packing such as preservation, waterproofing or similar additional protection packaging of the Product(s) will be charged in addition to the Purchase Price.

#### **Art. 12 Payment**

12.1 The Purchase Price and any additional charges shall be paid in the currency quoted by the Supplier and to the account number stipulated in the invoice.

12.2 The interest rate set out in Clause 21 of ORGALIME S 2012 shall be deleted and replaced with the prevailing interest rate pursuant to the Norwegian Act relating to interest on overdue payment (In Norwegian: "Forsinkelsesrenteloven").

#### **Art. 13 Changes in law and regulations etc**

In event of any changes in law, regulations, standard or bylaws during the continuance of the Contract or the interpretation thereof which will affect the Supplier's cost or its performance of the Contract, equitable adjustments shall be made to date(s) of delivery and price(s) resulting from them.

#### **Art. 14 Warranty**

Products are provided with a one year warranty. ORGALIME S 2012 clause 24-39 shall apply accordingly for any warranty claims.

#### **Art. 15 Maximum liability**

The Supplier's maximum liability under or in connection with the performance or non-performance of its obligations under the Contract shall in no event exceed 15 (fifteen) % of the Purchase Price. The maximum liability applies regardless of any form of liability, at law or otherwise, in whatever form, on the part of the Supplier and regardless of whether the Contract is terminated, cancelled or not.

#### **Art. 16 Severability**

If any Article, Clause or part of the Contract is held to be unenforceable, invalid or void, the Contract shall be deemed to modify or delete such Article, Clause or part partially or completely to the extent necessary to make the Contract valid and enforceable.

#### **Art. 17 Assignment and exclusion of third party rights**

17.1 The Purchaser may not subcontract, transfer or assign any of its rights or obligations under the Contract without the Suppliers consent In Writing.

17.2 Save as otherwise set out in the Contract, a person or entity who is not a party to the Contract has no right (whether by implication or as a matter of statute) to enforce or to enjoy the benefit of any terms and conditions of the Contract.

#### **Art. 18 Disputes and applicable law**

18.1 The Contract shall in all respects be governed by the laws of Norway.

18.2 Any dispute arising out of or in connection with the Contract which cannot be amicably settled, shall be referred to the ordinary courts of Norway with the Supplier's place of business as exclusive legal venue.

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